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EXHIBIT 1

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**Figure 1.** Dr. Hall-Ellis testified that she personally received record 1C by email from the German National Library (DNB) that possessed the Choyke textbook (dnb.de). But e-mails produced by ST show that the record is an incomplete record obtained by outside counsel for ST from a library “TIB” (tib.eu) that did not have the book.

**Attachment 1C (from TIB)**

000 0 am a22 4500  
001 0366402102  
003 ODE-627  
005 020221012184825.0  
007 0tu  
008 0030710s2004 gw ||||| 00 | eng c  
010 a 2003059642  
015 a03,N30,07002dnb  
016 7 abA3W02062UK  
016 7 a9679661402DE-101  
020 a354040458993-540-40458-9  
024 3 a9783540404583  
024 8 a2003-59642qIdentnummer  
035 a (DE-627) 366402102  
035 a (DE-576) 107228270  
035 a (DE-599) GBV366402102

**Missing required data**

**TIB confirms ST did not ask for the book**

**Dr. Hall-Ellis makes TIB copy job  
Attachment 1C and claims she got it from DNB.**

035 a (JUB)b1031278x  
040 aDE-627bgercDE-627erakwb

And if you look at my report, you will see in chapter 40 -- or in Paragraph 40, that in order to get a MARC record, I actually wrote to the National Library and requested it. And I did that, because I did not want an HTML record. I did not want a metadata record. I wanted a MARC record. And because of that, I requested one, and I got one, and that is the one attached to my report, as

Attachment 1C.

Ex. 2 (Hall-Ellis Dep.) 78:1-8.

**ST requests “MARC record” from TIB**

Dear Ms. Saleh,

Thank you for your order 218119318 (WORLDSHARE).

Because you don't need the book „Silicon carbide recent major advances“ the requested title and verso page is attached.

Ex. 4 (TIB Emails) at 8-9.

**Von:** Saleh, Dahlia [mailto:[dsaleh@sidley.com](mailto:dsaleh@sidley.com)]

**Gesendet:** Freitag, 3. März 2023 18:45

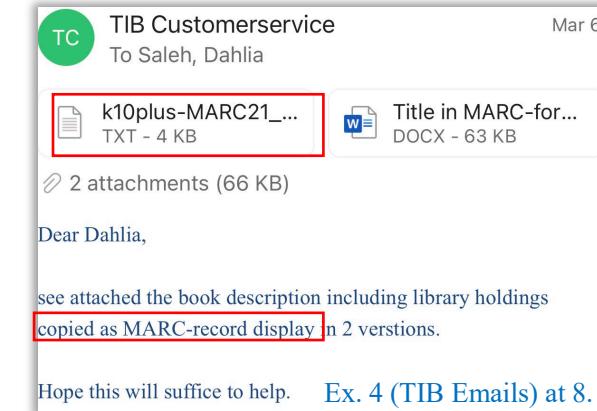
**An:** TIB CustomerService

**Betreff:** RE: Your request 218119318 (WORLDSHARE)

Thank you very much for sending. Is it possible to also send me the Marc record for this?

Ex. 4 (TIB Emails) at 8.

**TIB sends description “copied as MARC-record display” for book it doesn’t hold**



**Figure 2.** Dr. Hall-Ellis intentionally omitted the only true and correct MARC record for the physical Choyke book published by the German library (DNB) that created the first catalog record. The leader field disproves Dr. Hall-Ellis's conclusion of availability in June 2003. The "p" proves the record was opened before publication, as part of a cataloging-in-publication process.

### Deposition Exhibit 8

```
<?xml version="1.0" encoding="UTF-8"?>
<record xmlns="http://www.loc.gov/MARC21/slim" type="Bibliographic">
  <leader>00000pam 020000 4500</leader>
  <controlfield tag="001">967966140</controlfield>
  <controlfield tag="003">DE-101</controlfield>
  <controlfield tag="005">20171203144618.0</controlfield>
  <controlfield tag="007">tu</controlfield>
  <controlfield tag="008">030626s2004 gw |||| | | 00|||eng </controlfield>
  <datafield tag="015" ind1=" " ind2=" ">
    <subfield code="a">03,A8.0977</subfield>
    <subfield code="z">03,N30,0700</subfield>
    <subfield code="2">dnb</subfield>
  </datafield>
  <datafield tag="016" ind1="7" ind2=" ">
    <subfield code="2">DE-101</subfield>
    <subfield code="a">967966140</subfield>
  </datafield>
  <datafield tag="020" ind1=" " ind2=" ">
    <subfield code="a">3540404589</subfield>
    <subfield code="c">Pp. : EUR 213.95</subfield>
    <subfield code="9">3-540-40458-9</subfield>
  </datafield>
  <datafield tag="020" ind1=" " ind2=" ">
    <subfield code="a">9783642623332</subfield>
    <subfield code="c">pb. : EUR 330.63 (DE) (freier Pr.), EUR 339.90 (AT)
(freier Pr.), sfr 443.00 (freier Pr.)</subfield>
    <subfield code="9">978-3-642-62333-2</subfield>
  </datafield>
  <datafield tag="024" ind1="3" ind2=" ">
    <subfield code="a">9783540404583</subfield>
  </datafield>
  <datafield tag="035" ind1=" " ind2=" ">
    <subfield code="a">(DE-599)DNB967966140</subfield>
  </datafield>
  <datafield tag="035" ind1=" " ind2=" ">
    <subfield code="a">(OCoLC)249222256</subfield>
  </datafield>
  <datafield tag="040" ind1=" " ind2=" ">
    <subfield code="a">1140</subfield>
    <subfield code="b">ger</subfield>
    <subfield code="c">DE-101</subfield>
    <subfield code="d">9999</subfield>
  </datafield>
```

Dr. Hall-Ellis admits "p" in leader proves record was created pre-publication



Tags, indicators, fields, subfields

Exhibit 8 is MARC metadata for the Choyke textbook published by the German DNB library.

Dr. Hall-Ellis admits she omitted this record because she was only interested in "true MARC records" that have tags, indicators, fields and subfields

Q (By Mr. Offor) And do you see here, the -- there's a leader tag, a control -- and a -- do you see a leader tag here?

A Yes.

Q And do you see the first four character -- or five character positions? So character position 0 to four?

A I see them. I see them.

Q And in the fifth character position do you see a P?

A I do.

Q And earlier we talked about how the P indicates that a record has moved from pre-publication to the final record; is that correct?

A Yes. Ex. 2 (Hall-Ellis Dep.) 76:9-21.

Q (By Mr. Offor) Okay. So even though you could go to the German National Library website, find the record for the e-Book or the print book and subsequently look at the XML -- the MARC XML data for -- for the print book --

A Uh-huh.

Q -- you could do that; is that correct?

MR. TARNAY: Object to the form of the question.

A I could do that, but I'm interested in true MARC records, and that is not what this is.

Q (By Mr. Offor) And true -- and true -- true MARC records, you said. Okay.

A They have tags, indicators, fields and subfields; and this does not have those. Ex. 2 (Hall-Ellis Dep.) 80:8-21.

**Figure 3.** Dr. Hall-Ellis intentionally omitted leader data for the core MARC record she relied on to establish availability of the Lu Thesis. The leader field undermines her conclusion that an online version of the Lu Thesis was available June 10, 2004. The “c” in the omitted leader proves the record was modified after creation in ways Dr. Hall-Ellis cannot explain.

### Deposition Exhibit 3

leader 03407cam a2200361 4500  
001 99132578460001081  
005 20230301172254.0  
008 040610s2003 |||||||eng d  
020 ##\$a9780496714926  
035 ##\$a(UMI)AAI3124184  
035 ##\$aAAI3124184  
035 ##\$z(IPL)Voyager1384166  
040 ##\$aUMI \$cUMI  
099 ##\$a(THESIS)49333  
100 1#\$aLu, Chao-Yang.  
245 10\$aDesign and fabrication of high performance UMOSFETs in 4  
300 ##\$a139 p.  
500 ##\$aSource: Dissertation Abstracts International, Volume: 65  
500 ##\$aMajor Professor: James A. Cooper, Jr.  
500 ##\$aDepartment Head: Smith.  
500 ##\$aMajor Professor: Cooper.  
500 ##\$aUniversity Microfilm No.: Not available.  
502 ##\$aThesis (Ph.D.)--Purdue University, 2003.  
502 ##\$aThesis (PhD)--Purdue University, E  
520 ##\$aDue to their high breakdown strength  
520 ##\$aHowever, due to the low inversion  
690 ##\$aEngineering, Electronics and Electrical  
690 ##\$aEngineering, electronics and electrical.  
710 2#\$aPurdue University.  
773 0#\$tDissertation Abstracts Internati  
791 ##\$aPh.D.  
792 ##\$a2003  
856 ##\$uhttp://login.ezproxy.lib.purdue.

Q (By Mr. Offor) Well, do you -- from -- based on your knowledge and experience with MARC, would you disagree with that?

A This is an official federal document. I would not disagree with it.

Q And if you -- so in the record status, do you agree that C, the character C, in the fifth character position, which -- corresponding to record status, would indicate corrected or revised record?

A Yes. Ex. 2 (Hall-Ellis Dep.) 60:1-10.

Q Now, the leader is part of a MARC record; is it not?

A Every MARC record has a leader. Ex. 2 (Hall-Ellis Dep.) 36:9-18.

Q (By Mr. Offor) What is the information that you believe the leader shows?

A The leader shows the number of characters in the record itself. It also shows when the record was contributed, how it was indexed, and how it is in the system, where it's residing. In this case, it's in Voyager. It is not bibliographic data. Ex. 2 (Hall-Ellis Dep.) 45:18-24

Q (By Mr. Offor) -- You chose to remove -- chose to remove information from --

A The answer is, I did not include the leader.

Q And you did that intentionally?

A I do that intentionally. Ex. 2 (Hall-Ellis Dep.) 45:3-7

**Figure 4.** Dr. Hall-Ellis's after-the-fact excuses to do not justify her actions.

Q (By Mr. Offor) A second ago you said you don't include [the leader information] and you don't include the control number because those things don't matter to your analysis, right?

A I did say that.

Q And now --

A I also -- I also said [sometimes I do include them] and I don't -- it doesn't matter to me. I don't use them; whether or not I include them. So you can ask me all day long, if I do or don't. The question is, I don't use them.

Q When do you -- [how do you choose when to exclude them and when to include them?]

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A I don't know. [It depends how I feel that day and how I'm doing at capturing records. This is a pretty tedious process.]

[Ex. 2 \(Hall-Ellis Dep.\) 104:13-105:3.](#)